

AN ACT

ENTITLED, An Act to revise certain terms used in the levy of taxes on banks and financial corporations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-43-1 be amended to read as follows:

10-43-1. Terms used in this chapter mean:

- (1) "Corporation," joint stock companies, limited partnerships, limited liability companies, and associations organized for pecuniary profit;
  - (a) "Domestic corporation," any corporation organized under the laws of this state;
  - (b) "Foreign corporation," any corporation other than a domestic corporation;
- (2) "Depository," any bank with deposits insured under the Federal Deposit Insurance Act, any institution with accounts insured by the federal savings and loan insurance corporation, or any thrift or home financing institution which is a member of a federal home loan bank; any other bank or thrift institution, incorporated or organized under the laws of any state, which is engaged in the business of receiving deposits; or any company, organized or created under the laws of a foreign country, which maintains or owns a branch or subsidiary in the United States receiving deposits;
- (3) "Dividend," any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property of the corporation;
- (4) "Financial institution," any banking institution or savings and loan association organized under the laws of the United States and located or doing business in this state; any bank, savings and loan association, mutual saving bank, or trust company, organized under the laws of this state or of any other state, district, territory, or country, doing business within this state; any person licensed in this state pursuant to chapter 54-4, the installment

repayment small loan and consumer finance law; and any person in the business of buying loans, notes, or other evidences of debt except those persons registered as broker-dealers pursuant to chapter 47-31A; and persons in the business of making installment repayment and open-end loans which may be unsecured or secured by real or personal property, which loans are in an aggregate amount exceeding five hundred dollars, which are repaid in two or more installment payments or one lump sum payment extending over a time exceeding thirty days from the day the loan was made except where the loan is made by the person selling the property, incidental to the sale of the property and where the seller is primarily in the business of selling such real or personal property or except where the loan is made to a related corporation and the primary business of these related corporations is the production and sale of tangible personal property or where the loan is made in the form of an advance to secure the production of equipment to be obtained by the lender or to finance a joint venture between the lender and others which has been formed to produce and sell tangible personal property;

- (5) "Fiscal year," an accounting period of twelve months, ending on the last day of any month other than December;
- (6) "Foreign country," any jurisdiction other than one embraced within the United States.  
"United States," when used in a geographical sense, includes the states, the District of Columbia, and the possessions of the United States;
- (7) "Income year," the calendar year or the fiscal year upon which the net income is computed;
- (8) "Individual," a natural person;
- (9) "Paid," for the purposes of the deductions means paid or accrued or paid or incurred, and the terms paid or incurred and paid or accrued are construed according to the accounting method used for computing net income; received, for the purpose of the computation of

net income means received or accrued, and the term received or accrued is construed according to the accounting method used for computing net income;

- (10) "Person," includes individuals, firms, associations, limited liability companies, corporations, estates, fiduciaries, and all entities from which income tax may be due. In no event shall a pass-through entity owned in whole or in part, directly or indirectly, by a financial institution subject to tax under this chapter, and formed primarily to facilitate the securitization of assets, be treated as a person for the purpose of subdivision 10-43-1(4);
- (11) "Related corporation," a corporation associated with another as its parent or subsidiary, or in a brother-sister relation;
- (12) "Taxable income," all net income;
- (13) "Taxpayer," includes any person, corporation, or fiduciary who is subject to a tax imposed by this chapter;
- (14) "Tax year," the calendar year, or the fiscal year ending during a calendar year, used for computing net income.

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I certify that the attached Act  
originated in the

SENATE as Bill No. 140

\_\_\_\_\_  
Secretary of the Senate  
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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 140

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State